

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

CARLOS AVILES ARMENTA

§

v.

§

CIVIL ACTION NO. 5:06cv76

JOHN PRYOR, ET AL.

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

The Plaintiff Carlos Armenta filed this lawsuit complaining of alleged deprivations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Armenta has filed a motion for injunctive relief, which essentially repeats the allegations of his complaint concerning allegations of mail tampering, and says that he is seeking such injunctive relief in order to ensure that he is able freely to communicate with the courts.

On April 15, 2007, the Magistrate Judge issued a Report recommending that the motion for injunctive relief be denied. After setting out the applicable standards for preliminary injunctive relief, the Magistrate Judge concluded that Armenta had not shown a substantial likelihood that he would prevail on his claims, nor a substantial threat of irreparable injury. In addition, the Magistrate Judge concluded that Armenta had not shown that the proposed injunctive relief would not disserve the public interest, in that it would represent a substantial inference in the operation of a state agency by the federal judiciary.

Armenta filed objections to the Magistrate Judge's Report on April 23, 2008. In his objections, he says that he has stated and raised meritorious claims of retaliation, conspiracy, denial of access to courts, and the destruction of legal documents concerning his appeal. He says that if this

causes him to spend more time in prison, this amounts to irreparable injury. Armenta argues that a First Amendment violation by itself constitutes an irreparable injury and that the Magistrate Judge's Report is "overlooking the facts."

The Court has conducted a careful *de novo* review of the pleadings in this cause, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all relevant documents and filings in the record. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for a temporary restraining order or preliminary injunction (docket no. 25) is hereby DENIED.

SIGNED this 21st day of July, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE